

OPINION 880

Gobi *ORCA* COLLETT, 1874 (PISCES): REFUSAL TO USE THE
PLENARY POWERS TO SET ASIDE A FIRST REVISER SELECTION

RULING.—The use of the plenary powers to set aside the selection made by Smitt (1900) as first reviser, of *scorpioides* Collett, 1874, in preference to *orca* Collett, 1874, both names published in combination with the generic name *Gobius* in the same work and on the same date, is hereby refused.

HISTORY OF THE CASE (Z.N.(S.) 1655)

The present case was submitted to the office of the Commission by Dr. P. J. Miller in June 1964. Dr. Miller's application was sent to the printer on 13 July 1964 and was published on 26 November 1964 in *Bull. zool. Nomencl.* **21** : 388–391. Public Notice of the possible use of the plenary powers in the present case was given in the same part of the *Bulletin* as well as to the other prescribed serial publications (Constitution Art. 12b; *Bull. zool. Nomencl.*, **21** : 184). No comment was received.

DECISION OF THE COMMISSION

On 19 September 1966 the Members of the Commission were invited to vote under the Three-Month Rule on Voting Paper (66)49 either for or against the proposals set out in *Bull. zool. Nomencl.* **21** : 390. At the close of the prescribed voting period on 19 December 1966 the state of the Voting was as follows:

Affirmative votes—ten (10), received in the following order: Boschma, China, Bonnet, Uchida, Brinck, Jaczewski, Tortonese, Alvarado, Stoll, Forest.

Negative votes—thirteen (13): Holthuis, Simpson, Mayr, Vokes, Obruchev, Lemche, Binder, Munroe, Sabrosky, Ride, Kraus, Mertens, Evans.

Voting Papers not returned—one (1): Hubbs.

Commissioner do Amaral returned a late affirmative vote. The following comments were made by Commissioners in returning their votes:

Dr. L. B. Holthuis (29.ix.66): "As both names have been used so little and only twice synonymised, I see no reason not to follow the Rules strictly."

Prof. G. G. Simpson (29.ix.66): "On the evidence submitted, *scorpioides* has been more commonly used than *orca*, so there are no good grounds for setting it aside."

Prof. Ernst Mayr (3.x.66): "There are three reasons for preferring the name *scorpioides*: (1) it was the name used in the original description of the genus *Lebetus*, (2) it has been used more often in the literature, and (3) is the name chosen by the first reviser."

Prof. H. E. Vokes (4.x.66): "While Prof. Miller makes it reasonably clear that the extensive modern treatment [zoological] has appeared under the species name '*orca*', which he wishes to preserve—he also, in my opinion, fails to consider the nomenclatorial position in which we find that *scorpioides* is the type of the genus *Lebetus*. The question as to possible confusion or nomenclatorial instability arising from this latter situation are wholly ignored in the present

application. I would desire some consideration of this latter factor before considering a possible affirmative vote."

Dr. Henning Lemche (20.x.66): "Both Winther and Smitt seem to have preferred the specific name *scorpioides* for *orca*. There is only the, non-valid, claim for page priority to support the use of *orca*."

Dr. C. W. Sabrosky (5.xii.66): "(1) The evidence does not justify this case as being important enough for action under the plenary powers. The application itself states that the species is 'infrequently encountered' and that both names 'have been in use until recently'. (2) The revision that we are asked to recognize dates only from 1961, and it was then contrary to the rule in effect at the time (first reviser rule, adopted by the Copenhagen Congress).

"I see no reason whatsoever to suspend the normal operation of the Rules."

CERTIFICATE

We certify that the votes cast on Voting Paper (66)49 were cast as set out above, that the proposal contained in that Voting Paper has not been adopted, and that the decision so taken, being the decision of the International Commission, is truly recorded in the present Opinion No. 880.

R. V. MELVILLE
Secretary

W. E. CHINA
Assistant Secretary
International Commission on Zoological Nomenclature
London
30 January 1969